

REMARKS

Claim Status

Claims 1, 4 – 6, 8 and 15 – 17 are pending in the application. No additional fees are believed to be due.

Claim 1 has been amended to further recite a weight ratio. Support for this amendment is available in the specification as filed at page 26, lines 24 – 27

New Claim 15 has been added. Support for this claim is available in the specification as filed at page 26, lines 24 – 27.

New Claim 16 has also been added. Support for this amendment is available in the specification as filed at page 38, lines 1 - 5.

New Claims 17 and 18 have been added. Support for this amendment is available in the specification as filed at page 38, lines 22 - 33.

New Claim 19 has also been added. Support for this amendment is available in the specification as filed at page 38, lines 5 – 12.

New Claims 20 has been added reciting that the composition is essentially clear. Support for this amendment is available in the specification as filed at page 38, line 11.

Rejection Under 35 U.S.C. § 102(a) Over Leurentop in view of Klewsaat

Claims 1, 4 – 6, and 8 have been rejected under 35 U.S.C. § 102(a) as being unpatentable over WO 98/12295 hereinafter “Leurentop” in view of U.S. Patent No. 4,888,119 hereinafter “Klewsaat”. Applicants respectfully submit that this rejection is improper as the cited references fail to anticipate the present invention as recited in the claims.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987); *see* MPEP 2131.

Applicants submit that the Office Action relies on Leurentop in view of Klewsaat in order to support its 102(a) rejection on page 4. Applicants submit that such a combination of references is improper to support a rejection under 35 U.S.C. § 102.

Assuming *arguendo* that the Office Action meant to reject said claims under 35 U.S.C. § 103(a) as being obvious in light of the cited references, Applicants still contend that the rejection is improper because a *prima facie* case of obviousness has not been

established to make the presently recited Claims obvious. Applicants submit that the cited references, considered alone and in combination, fail to teach or suggest each and every element of the present invention as recited in Claim 1 and subsequent dependant claims.

To establish a *prima facie* obviousness of a present invention, all the claim elements must be taught or suggested by the prior art reference. *See In re Royka*, 490 F.2d 981 (C.C.P.A. 1974); MPEP § 2143.03. Furthermore, references relied upon to support a rejection under 35 U.S.C. § 103 must provide enabling disclosure, i.e., they must place the recited invention in the possession of the public. *In re Payne*, 606 F.2d 303 (C.C.P.A. 1979). Furthermore, in establishing a *prima facie* case of obviousness, case law clearly places the “burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103.” *In re Warner*, 379 F.2d 1011, 1016 (C.C.P.A. 1967).

The Supreme Court of the United States has set forth that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739 (2007). The Court then explains that “a court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740. The Court goes on to require that, “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness.” *Id.* at 1741.

Applicants respectfully submit that the Office Action fails to meet the requirements set forth in above. In particular, Applicants submit that the Office Action fails to demonstrate how the cited references teach or suggest a fabric care composition comprising the element of “wherein the weight ratio of scum reducing agent to the sum of the polyamino-functional polymer and the dye fixing agents is from 0.05:1 to 2:1.” *See* Claim 1. At best, Laurentop discloses “a dye fixing agent and a specific amino-functional polymer, said composition providing an improved color care on fabrics upon laundry treatment.” *See* Office Action at page 4, second full paragraph. The Office Action in the past paragraph of that page, however, acknowledges that Laurentop “does not teach the use of polyoxyalkylene alkyl amine surface active agents.” The Office Action at page 5, goes on to rely on Klewsaat for the disclosure of emulsifying agents such as alkyl ethoxylated

amines. Applicants find no teaching or suggestion to arrive at the specific weight ratio as recited in Claim 1. Applicants submit that there has been no showing of why it would have been obvious to arrive at such a weight ratio when formulating a fabric care composition comprising a polyamino-functional polymer and dye fixing agent in addition to the scum reducing agent.

Furthermore, Applicants point out that the references fail to teach or suggest each and every element of Claim 16, reciting the additional element of an ease of formulation solvent. Moreover, Claim 19 further recites that the ease of formulation solvent comprises an asymmetric solvent. Claim 20 further recites that the fabric care composition is essentially clear. Applicants find no teaching or suggestion of every element of any of these claims. At best, Laurentop at page 35, lines 10 – 20 discloses that optional ingredients include a liquid carrier, “[s]uitable liquid carriers are selected from water, organic solvents, and mixtures thereof.” Applicants point out, however, that the cited references still fail to teach or suggest each and every element of Claim 1, upon which Claims 16 – 20 depend. Furthermore, Applicants find no specific teaching or suggestion enabling one of skill in the art to arrive at the specific ease of formulation solvents as recited in the present claims. Moreover, Applicants find no teaching or suggestion to include an asymmetric solvent which has been found to be preferred for substantially clear formulations. *See* Claims 19 and 20 and specification as filed at page 38. As such, Applicants submit that the presently recited claims are neither anticipated nor obvious in view of the cited references. Applicants request that this rejection be accordingly withdrawn.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned attorney for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

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Docket No. CM1882
Amdt. dated December 16, 2008
Reply to Office Action Dated September 19, 2008
Customer No. 27752

CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Proctor & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

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